THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20963 OF 2006

DATED 23rd OCTOBER, 2006

BETWEEN

Kollu Venku Reddy and another

… Petitioners

and

The District Collector, Nellore, Nellore District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20963 OF 2006

ORDER:

The two petitioners are owners of agricultural lands in survey No.257 (Acs.3.80 cents), survey No.319 (Acs.1.20 cents) and survey No.319 (Acs.5.00 cents) situated at Thikkavaram village, Chillakur Mandal in Nellore District, which they allegedly purchased under registered sale deeds in March, 2006. They allege that though there is no cart track/donka/pathway passing across the lands, the third respondent directed them to leave 50 feet wide way to the villagers. Therefore, they filed the present writ petition complaining violation of their right under Article 300-A of Constitution of India and seek a writ of Mandamus to declare the action of the respondents in interfering with the possession and enjoyment of the land as illegal and arbitrary.

At the stage of preliminary hearing itself, the learned Assistant Government Pleader for Revenue (Assignment) submits that the writ petition is filed on false allegations. He submits that there was a pathway/rasta passing through the land for over twenty five years and when the petitioners tried to prevent use of the pathway, the villagers objected to the same and that the respondents never went to the land nor interfered with the possession of the petitioners.

Though the learned counsel for the petitioners relies on the schedule appended to the sale deed, under which the petitioners purchased the property, this Court cannot entertain the writ petition, which is filed on mere apprehension. If the petitioners allege that there is no pathway in the land, which they purchased and there is interference by the villagers on such an allegation, their remedy is to approach the civil Court and obtain appropriate specific relief. A writ petition in a matter of this nature is misconceived. If the petitioners approach the civil Court, the issue has to be considered based on the evidence without in any manner influenced by the observations made hereinabove or the fact that the writ petition is dismissed *in limine.*

The writ petition, with the above observations, is accordingly dismissed *in limine.* No costs.

(V.V.S.RAO,J)

23.10.2006.
pln